



Washington State
Liquor and Cannabis Board

Date: April 24, 2024

To: David Postman, Board Chair
 Ollie Garrett, Board Member
 Jim Vollendroff, Board Member

From: Daniel Jacobs, Policy and Rules Coordinator

Copy: Will Lukela, Agency Director
 Toni Hood, Agency Deputy Director
 Chandra Wax, Director of Enforcement and Education
 Becky Smith, Licensing Director
 Justin Nordhorn, Policy and External Affairs Director
 Cassidy West, Policy & Rules Manager

Subject: **Approval to file a pre-proposal statement of inquiry (CR 101) regarding implementation of Substitute House Bill (SHB) 1453 related to medical cannabis patient excise tax exemption.**

The Washington State Liquor and Cannabis Board is considering repealing, amending, and creating rule sections in Title 314 WAC as necessary to implement Substitute House Bill ([SHB\) 1453 \(chapter 79, Laws of 2024\)](#), which exempts qualifying patients from the cannabis excise tax until June 2029, provided certain requirements described in more detail in the CR 101 memo are met.

Process

The Policy and Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. A CR 101 Memorandum was presented at the Board meeting on April 24, 2024 and is attached to this order.

If approved for filing, the **tentative timeline** for the rule making process is outlined below:

April 24, 2024	Board is asked to approve filing pre-proposal statement of inquiry (CR 101). CR 101 is filed with the Office of the Code Reviser. Webpage is updated and notice circulated by GovDelivery distribution list. Informal comment period begins.
May 15, 2024	Notice is published in the Washington State Register under WSR 24-10.
May 29, 2024	Informal comment period ends.

June 18, 2024	Board is asked to approve filing proposed rules (CR 102). CR 102 is filed with the Office of the Code Reviser. Webpage is updated and notice circulated by the rules distribution list. Formal comment period begins.
July 5, 2024	Notice is published in the Washington State Register under WSR 24-13.
July 31, 2024	Public hearing is held and formal comment period ends.
August 14, 2024	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement is provided to individuals offering written or oral comment at the public hearing or during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. Webpage is updated and notice circulated by GovDelivery distribution list.
September 14, 2024	Rules are effective 31 days after filing unless otherwise specified. See RCW 34.05.380(2).

_____ Approve	_____ Disapprove	_____	_____
		David Postman, Chair	Date
_____ Approve	_____ Disapprove	_____	_____
		Ollie Garrett, Board Member	Date
_____ Approve	_____ Disapprove	_____	_____
		Jim Vollendroff, Board Member	Date

Attachments: CR 101 Memorandum.
Substitute House Bill 1453 (chapter 79, Laws of 2024)



CR 101 Memorandum

Regarding Implementation of Substitute House Bill (SHB) 1453 (chapter 79, Laws of 2024).

Date: April 24, 2024
Presented by: Daniel Jacobs, Policy and Rules Coordinator

Background

The Washington State Legislature passed Substitute House Bill ([SHB 1453 \(chapter 79, Laws of 2024\)](#)), which exempts qualifying patients or designated providers issued a recognition card, purchasing cannabis identified by the Washington State Department of Health in chapter 246-70, from a cannabis retailer issued a medical cannabis endorsement, from the cannabis excise tax until June 30, 2029.

Reasons Why Rulemaking Is Needed

Amendments to, or repeal of, existing rules, as well as creating new rules, may be necessary to implement the temporary excise tax exemption for medical cannabis patients as described in [SHB 1453 \(chapter 79, Laws of 2024\)](#).

Process

The rulemaking process begins by announcing the Board's intent to consider changes to existing rules, add new rule sections, or both by filing a pre-proposal statement of inquiry (CR 101) form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing possible rule changes.

At the CR 101 stage of the rulemaking process, no proposed language is offered. Any interested person may comment on this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity related to this pre-proposal statement of inquiry. The notice will identify the public comment period and where comments can be sent.



PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)
(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

Agency: Washington State Liquor and Cannabis Board

Subject of possible rule making: Title 314 WAC. The Washington State Liquor and Cannabis Board (Board) is considering repealing, amending, and creating rule sections as necessary to implement Substitute House Bill (SHB) 1453 (chapter 79, Laws of 2024) which exempts qualifying patients or designated providers issued a recognition card, purchasing cannabis identified by the Washington State Department of Health in chapter 246-70, from a cannabis retailer issued a medical cannabis endorsement, from the cannabis excise tax until June 30, 2029.

Statutes authorizing the agency to adopt rules on this subject: RCW 69.50.342 (Cannabis).

Reasons why rules on this subject may be needed and what they might accomplish: Rules may be needed to implement the provisions of SHB 1453 that provide a temporary excise tax exemption until June 30, 2029 provided that:

- The purchase is at a cannabis retailer with a medical cannabis endorsement;
- The sale is made to a qualifying patient or designated provider who has been issued a recognition card;
- The cannabis concentrates, useable cannabis, or cannabis-infused product has been identified by the Washington State Department of Health as a complaint cannabis product in chapter 246-70 WAC and tested to the standards in WAC 246-70-040.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: Washington State Department of Health, Washington State Department of Revenue

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Collaborative rule making

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

Name: Daniel Jacobs, Policy and Rules Coordinator
Address: PO BOX 43080, Olympia, WA 98504
Phone: 360-480 1238
Fax: 360-704-5027
TTY:
Email: rules@lcb.wa.gov
Web site: lcb.wa.gov
Other:

(If necessary)

Name:
Address:
Phone:
Fax:
TTY:
Email:
Web site:
Other:

Additional comments: Interested persons can participate in the rule process through open public meetings and by submitting written comments, and are encouraged to sign up for the interested parties list (GovDelivery) at <https://public.govdelivery.com/accounts/WALCB/subscriber/new>. Rulemaking notices and stakeholder engagement opportunities will be emailed via GovDelivery and posted to the WSLCB website at lcb.wa.gov.

Date: April 24, 2024	Signature: Place signature here
Name: David Postman	
Title: Chair	

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1453

Chapter 79, Laws of 2024

68th Legislature
2024 Regular Session

MEDICAL CANNABIS PATIENTS—EXCISE TAX EXEMPTION

EFFECTIVE DATE: June 6, 2024

Passed by the House March 6, 2024
Yeas 82 Nays 14

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 1, 2024
Yeas 36 Nays 13

DENNY HECK

President of the Senate

Approved March 14, 2024 11:10 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1453** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 14, 2024

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1453

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

State of Washington **68th Legislature** **2023 Regular Session**

By House Finance (originally sponsored by Representatives Wylie, Chapman, and Kloba)

READ FIRST TIME 02/23/23.

1 AN ACT Relating to providing a tax exemption for medical cannabis
2 patients; amending RCW 69.50.535; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 69.50.535 and 2022 c 16 s 101 are each amended to
5 read as follows:

6 (1)(a) There is levied and collected a cannabis excise tax equal
7 to thirty-seven percent of the selling price on each retail sale in
8 this state of cannabis concentrates, useable cannabis, and cannabis-
9 infused products. This tax is separate and in addition to general
10 state and local sales and use taxes that apply to retail sales of
11 tangible personal property, and is not part of the total retail price
12 to which general state and local sales and use taxes apply. The tax
13 must be separately itemized from the state and local retail sales tax
14 on the sales receipt provided to the buyer.

15 (b) The tax levied in this section must be reflected in the price
16 list or quoted shelf price in the licensed cannabis retail store and
17 in any advertising that includes prices for all useable cannabis,
18 cannabis concentrates, or cannabis-infused products.

19 (2)(a) Until June 30, 2029, the tax levied by subsection (1) of
20 this section does not apply to sales by a cannabis retailer with a
21 medical cannabis endorsement to qualifying patients or designated

1 providers who have been issued a recognition card, of cannabis
2 concentrates, useable cannabis, or cannabis-infused products,
3 identified by the department as a compliant cannabis product in
4 chapter 246-70 WAC and tested to the standards in WAC 246-70-040.

5 (b) Each seller making exempt sales under this subsection (2)
6 must maintain information establishing eligibility for the exemption
7 in the form and manner required by the board.

8 (c) The board must provide a separate tax reporting line on the
9 excise tax form for exemption amounts claimed under this subsection
10 (2).

11 (3) All revenues collected from the cannabis excise tax imposed
12 under this section must be deposited each day in the dedicated
13 cannabis account.

14 ~~((3))~~ (4) The tax imposed in this section must be paid by the
15 buyer to the seller. Each seller must collect from the buyer the full
16 amount of the tax payable on each taxable sale. The tax collected as
17 required by this section is deemed to be held in trust by the seller
18 until paid to the board. If any seller fails to collect the tax
19 imposed in this section or, having collected the tax, fails to pay it
20 as prescribed by the board, whether such failure is the result of the
21 seller's own acts or the result of acts or conditions beyond the
22 seller's control, the seller is, nevertheless, personally liable to
23 the state for the amount of the tax.

24 ~~((4))~~ (5) The definitions in this subsection apply throughout
25 this section unless the context clearly requires otherwise.

26 ~~(a) ("Board" means the state liquor and cannabis board.~~

27 ~~(b))~~ "Retail sale" has the same meaning as in RCW 82.08.010.

28 ~~((e))~~ (b) "Selling price" has the same meaning as in RCW
29 82.08.010, except that when product is sold under circumstances where
30 the total amount of consideration paid for the product is not
31 indicative of its true value, "selling price" means the true value of
32 the product sold.

33 ~~((d))~~ (c) "Product" means cannabis, cannabis concentrates,
34 useable cannabis, and cannabis-infused products.

35 ~~((e))~~ (d) "True value" means market value based on sales at
36 comparable locations in this state of the same or similar product of
37 like quality and character sold under comparable conditions of sale
38 to comparable purchasers. However, in the absence of such sales of
39 the same or similar product, true value means the value of the

1 product sold as determined by all of the seller's direct and indirect
2 costs attributable to the product.

3 ~~((+5))~~ (6)(a) The board must regularly review the tax level
4 established under this section and make recommendations, in
5 consultation with the department of revenue, to the legislature as
6 appropriate regarding adjustments that would further the goal of
7 discouraging use while undercutting illegal market prices.

8 (b) The board must report, in compliance with RCW 43.01.036, to
9 the appropriate committees of the legislature every two years. The
10 report at a minimum must include the following:

11 (i) The specific recommendations required under (a) of this
12 subsection;

13 (ii) A comparison of gross sales and tax collections prior to and
14 after any cannabis tax change;

15 (iii) The increase or decrease in the volume of legal cannabis
16 sold prior to and after any cannabis tax change;

17 (iv) Increases or decreases in the number of licensed cannabis
18 producers, processors, and retailers;

19 (v) The number of illegal and noncompliant cannabis outlets the
20 board requires to be closed;

21 (vi) Gross cannabis sales and tax collections in Oregon; and

22 (vii) The total amount of reported sales and use taxes exempted
23 for qualifying patients. The department of revenue must provide the
24 data of exempt amounts to the board.

25 (c) The board is not required to report to the legislature as
26 required in (b) of this subsection after January 1, 2025.

27 ~~((+6))~~ (7) The legislature does not intend and does not
28 authorize any person or entity to engage in activities or to conspire
29 to engage in activities that would constitute per se violations of
30 state and federal antitrust laws including, but not limited to,
31 agreements among retailers as to the selling price of any goods sold.

32 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
33 performance statement for the tax preference contained in section 1,
34 chapter . . . , Laws of 2024 (section 1 of this act). This performance
35 statement is only intended to be used for subsequent evaluation of
36 the tax preference. It is not intended to create a private right of
37 action by any party or to be used to determine eligibility for
38 preferential tax treatment.

1 (2) The legislature categorizes this tax preference as one
2 intended to provide tax relief for certain businesses or individuals,
3 as indicated in RCW 82.32.808(2)(e).

4 (3) It is the legislature's specific public policy objective to
5 ensure medical cannabis products are accessible and affordable for
6 qualifying patients and designated providers.

7 (4) The joint legislative audit and review committee must include
8 in its review of this tax preference an evaluation of:

9 (a) Any change in the number of qualifying patients or designated
10 providers;

11 (b) Any change in the amount, types, or sales of tax-exempt
12 products, as identified in section 1 of this act; and

13 (c) Any other information the joint legislative audit and review
14 committee deems necessary to evaluate the tax preference in section 1
15 of this act.

16 (5) In order to obtain the data necessary to perform the review
17 in subsection (4) of this section, the joint legislative audit and
18 review committee may access any data collected by the department of
19 health or the liquor and cannabis board or any other data collected
20 by the state.

21 (6) The joint legislative audit and review committee must submit
22 a report of its findings to the legislature by December 1, 2028.

Passed by the House March 6, 2024.

Passed by the Senate March 1, 2024.

Approved by the Governor March 14, 2024.

Filed in Office of Secretary of State March 14, 2024.

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